

# EXHIBIT 3

**In The Matter Of:**

***ANDERSON NEWS, LLC***

***v.***

***AMERICAN MEDIA INC., et al.***

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***DR. THOMAS Z. LYS - Vol. 1***

***September 19, 2014***

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**MERRILL CORPORATION**

**LegaLink, Inc.**

1345 Avenue of the Americas

17th Floor

New York, NY 10105

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
ANDERSON NEWS, L.L.C. and LLYOD  
WHITAKER, as Assignee under an Assignment  
for the benefit of Creditors for Anderson  
Services, L.L.C.,

Plaintiffs,  
Civil Action No.  
-against- 09-CIV-2227

AMERICAN MEDIA, INC., BAUER PUBLISHING  
CO., L.P., CURTIS CIRCULATION COMPANY,  
DISTRIBUTION SERVICES, INC., HACHETTE  
FILIPACCHI MEDIA, M.S., INC., HEARST  
COMMUNICATIONS, INC., HUDSON NEWS  
DISTRIBUTORS, L.L.C., KABLE DISTRIBUTION  
SERVICES, INC., RODALE, INC., TIME INC.,  
and TIME/WARNER RETAIL SALES & MARKETING  
INC.,

Defendants.

-----x  
AMERICAN MEDIA, INC., HEARST  
COMMUNICATIONS, INC., and TIME INC.,  
Counterclaim-Plaintiffs

-against-  
ANDERSON NEWS, INC., and CHARLES  
ANDERSON, JR., Counterclaim-Defendants

-----x  
September 19, 2014  
9:14 a.m.

Videotaped Deposition of DR. THOMAS Z.  
LYS, taken by Defendants, pursuant to Notice,  
at the offices of Cravath, Swaine & Moore, LLP,  
825 Eighth Avenue, New York, New York, before  
William Visconti, a Shorthand Reporter and  
Notary Public within and for the State of New  
York.

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1  
2 Solutions and you may swear the witness. 09:15:48  
3 T H O M A S Z. L Y S, 09:15:50  
4 having been first duly sworn by the Notary Public, 09:15:50  
5 was examined and testified as follows: 09:15:50  
6 EXAMINATION CONDUCTED BY MR. RYAN: 09:15:52  
7 Q. Good morning. 09:15:52  
8 A. Good morning, Mr. Ryan. 09:16:00  
9 Q. Could you please state your full 09:16:01  
10 name for the record? 09:16:04  
11 A. My name is Thomas Z. Lys. 09:16:04  
12 Q. Have you been retained as an expert 09:16:07  
13 in this case? 09:16:10  
14 A. Yes, I have. 09:16:11  
15 Q. By whom were you retained? 09:16:12  
16 A. I have been retained by counsel for 09:16:19  
17 Plaintiffs. 09:16:21  
18 Q. And is that both Anderson News and 09:16:22  
19 Anderson Services? 09:16:25  
20 A. That's correct. 09:16:26  
21 (Lys Exhibit 1 for identification, 09:16:26  
22 Expert report of Doctor Lys.) 09:16:34  
23 Q. Let me hand you what we previously 09:16:34  
24 marked as Lys Exhibit 1. Is Lys Exhibit 1 a true 09:16:36  
25 and accurate copy of an expert report that you 09:16:52

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1	THOMAS Z. LYS	
2	known or knowable as of February '09.	11:17:24
3	Q. And this case Defendants' alleged	11:17:28
4	unlawful conduct is the antitrust conspiracy that	11:17:32
5	the Plaintiffs in this case claim took place,	11:17:37
6	right?	11:17:40
7	A. That's my understanding, yes.	11:17:40
8	Q. You don't have any opinion as to	11:17:42
9	whether in fact there was an antitrust conspiracy	11:17:47
10	or not, right?	11:17:51
11	A. I do not.	11:17:52
12	Q. Do you agree then if there was an	11:17:53
13	industry downturn in the real world, you would	11:17:55
14	include that in your but for world as well?	11:17:59
15	A. No, I do not agree with that.	11:18:02
16	Q. Do you agree that if there was an	11:18:04
17	industry downturn that was known or knowable in	11:18:06
18	the real world as of February 10th, 2009 that you	11:18:10
19	would include that in your but for world as well?	11:18:13
20	A. Yes.	11:18:15
21	Q. Do you agree that if Anderson	11:18:18
22	management managed the business badly in the real	11:18:22
23	world, that you would include that in the but for	11:18:27
24	world as well?	11:18:29
25	MR. PAMPHILIS: Objection to form.	11:18:29

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1	THOMAS Z. LYS	
2	differ. I don't understand differ. If differ	11:44:08
3	means it is not identical, I agree. If you're	11:44:11
4	asking me do I consider and rely on management's	11:44:15
5	forecast, the answer is yes. My revenue forecast	11:44:22
6	has five legs and management is one of the legs.	11:44:26
7	Q. And you ended up using a different	11:44:31
8	revenue forecast as a result of your five legs	11:44:34
9	from management's forecast, right?	11:44:37
10	A. Yes. I have done this in virtually	11:44:39
11	every DCF. It is rare to rely a hundred percent	11:44:42
12	on a single source and particularly management.	11:44:50
13	Q. Were the DCF models for Anderson	11:44:58
14	News and Anderson Services that you prepared,	11:45:02
15	prepared for purposes of this litigation?	11:45:05
16	A. Again, I'm trying to understand how	11:45:17
17	to -- what your question is all about. I was hired for	11:45:19
18	the purpose of this litigation. I prepared these	11:45:23
19	models. I did not use anybody else's models.	11:45:25
20	Does this answer your question.	11:45:38
21	Q. It does. They were models that you	11:45:38
22	prepared for purposes of this lawsuit, right?	11:45:40
23	MR. PAMPHILIS: Objection, form.	11:45:43
24	A. I prepared this to value Anderson.	11:45:44
25	If you asked me to value Anderson's assets absent	11:45:50

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1	THOMAS Z. LYS	
2	those are the discussions that we had.	11:59:06
3	Q. Was it important for you whether	11:59:07
4	there was contemporaneous documentation prepared	11:59:09
5	by Anderson management before the companies went	11:59:12
6	out of business --	11:59:15
7	MR. PAMPHILIS: Objection to form.	11:59:16
8	Q. -- that showed an expectation that	11:59:17
9	Anderson News would become profitable without a	11:59:22
10	per copy surcharge?	11:59:25
11	MR. PAMPHILIS: Objection to form.	11:59:26
12	A. I didn't see -- I don't recall	11:59:26
13	seeing a document of that nature. But all of my	11:59:32
14	discussions with management -- many, not all, many	11:59:37
15	of my discussions with management were is this	11:59:40
16	consistent with contemporaneous documents that you	11:59:45
17	have. For example the cost-cutting are based on	11:59:49
18	the data that were available 2013, in this year	11:59:57
19	2014 that are based on contemporaneous documents.	12:00:05
20	So, yes, of course.	12:00:13
21	Q. Were you supported in your work in	12:00:14
22	this case by a team of other individuals?	12:00:18
23	MR. PAMPHILIS: Objection to form.	12:00:20
24	A. Yes.	12:00:21
25	Q. Who are they?	12:00:24

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1	THOMAS Z. LYS	
2	data were unreliable?	12:22:44
3	A. I don't remember. But my team	12:22:45
4	determined that was the case.	12:22:47
5	Q. Somebody at Bates White?	12:22:48
6	A. They did not make that up. I	12:22:50
7	believe this is the information we got when we	12:22:53
8	obtained the data.	12:22:56
9	Q. Did you conclude that the Magnet	12:22:57
10	data for 2007 and years going forward were	12:22:59
11	reliable?	12:23:03
12	MR. PAMPHILIS: Objection, form.	12:23:05
13	A. Yes.	12:23:07
14	Q. Now, was the third input that you	12:23:10
15	used in arriving at your 6.81 percent weighted age	12:23:11
16	price growth a Bureau Of Labor Statistics price	12:23:19
17	index?	12:23:25
18	A. Correct.	12:23:25
19	Q. And is the Bureau Of Labor	12:23:25
20	Statistics a U.S. Government entity?	12:23:29
21	A. I believe so. But I'm not definite	12:23:30
22	on that.	12:23:38
23	Q. In any event you're aware that it's	12:23:38
24	an official source of price indices widely used by	12:23:42
25	economists?	12:23:48

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1	THOMAS Z. LYS	
2	in Services. And so he doesn't understand that	12:33:02
3	and therefore doesn't adjust his revenue and price	12:33:09
4	forecasts suddenly don't match with the quantity	12:33:17
5	forecast.	12:33:23
6	If you want to do this correctly	12:33:23
7	manipulating one at a time what you have to do is	12:33:25
8	lower the price trend as he did, but then take	12:33:28
9	into account the resulting increase in volume.	12:33:35
10	Remember, the volume is by backing out prices and	12:33:39
11	revenue. He doesn't do that.	12:33:43
12	So I think he fundamentally doesn't	12:33:48
13	understand my model and it is very dangerous to	12:33:51
14	manipulate a model that you don't understand. I'm	12:33:54
15	telling you if you do that correctly you actually	12:33:58
16	get plus I think 28 million, I don't remember. I	12:34:00
17	just did it quickly.	12:34:03
18	Q. You get --	12:34:04
19	A. His conclusion is wrong.	12:34:06
20	Q. You get plus 28 million using a 6	12:34:08
21	percent price growth rate?	12:34:13
22	A. Whatever his change was, I forgot.	12:34:14
23	Q. This is a calculation that you	12:34:18
24	performed this morning?	12:34:20
25	A. Yes.	12:34:20

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1	THOMAS Z. LYS	
2	Q. Didn't you tell me earlier today	12:34:21
3	that you hadn't performed any calculations since	12:34:23
4	you submitted your July report?	12:34:27
5	MR. PAMPHILIS: Objection to form.	12:34:28
6	A. This was not the calculation. This	12:34:29
7	is just trying to understand what was going on in	12:34:31
8	his critique. But I mean if this is -- I revise	12:34:34
9	my statement to include this.	12:34:38
10	Q. Are there any other calculations of	12:34:41
11	this type that you performed since you submitted	12:34:43
12	your July report?	12:34:46
13	A. I mean this was all done in	12:34:47
14	preparation for here. So I understand what the	12:34:48
15	criticism goes and why he is getting these strange	12:34:51
16	results. Let me remember. Not that I remember	12:34:55
17	right now. If I do I will certainly tell you.	12:35:05
18	Q. What I think you're saying is that	12:35:09
19	if the cover price growth rate assumption in your	12:35:12
20	DCF model is lowered, that will to some extent	12:35:20
21	raise the unit growth rate in your model?	12:35:27
22	A. Because of the way the units are	12:35:31
23	computed, yes.	12:35:34
24	Q. It would make the decline in units	12:35:35
25	somewhat less than what you have shown in your	12:35:39

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1	THOMAS Z. LYS	
2	Q. But your DCF you used magazine	13:22:44
3	price increases of 6.81 percent, right?	13:22:48
4	MR. PAMPHILIS: Objection to form.	13:22:56
5	A. I mean I don't know how to explain,	13:22:57
6	but if your question is do I use, the answer is	13:23:00
7	yes.	13:23:04
8	Q. So that's a price increase much	13:23:04
9	higher than the then forecast general rate of	13:23:08
10	inflation on consumer goods, right?	13:23:13
11	MR. PAMPHILIS: Objection to form.	13:23:15
12	A. It is and it's completely	13:23:16
13	irrelevant. I mean you are making an apple to	13:23:19
14	bananas comparison that an economist would never	13:23:26
15	make.	13:23:28
16	Q. Do you believe that magazine cover	13:23:31
17	prices generally track CPI during this period?	13:23:32
18	A. I neither believe or disbelieve	13:23:35
19	this.	13:23:37
20	Q. Have you looked into that question?	13:23:37
21	A. No, I have a forecast of magazine	13:23:39
22	prices. I don't know why I would want to muddy it	13:23:41
23	up with some beliefs. I have a forecast of what	13:23:46
24	magazine prices are doing and that is my best	13:23:51
25	forecast for the future. The CPI, core or noncore	13:23:55

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2 approach. There are other approaches and other  
3 experts may exercise their judgement differently.  
4 I have exercised my judgment and based on what I  
5 have seen in the other experts, I don't see any  
6 reason to change my judgment.

7 Q. You don't believe the frequency  
8 with which magazines change their cover prices  
9 would affect the time period over which you would  
10 want to study industrywide average price  
11 increases?

12 MR. PAMPHILIS: Objection to form.

13                   A.        I don't see that that adds a bias.  
14       As I told you, I simply didn't have longer time  
15       periods. If I had longer time periods I would  
16       have used them.

17 Q. I think you told me that you did  
18 have available to you internal data from Anderson  
19 News over longer time periods before 2007?

20                   A.         I'm not sure what I said. Can you  
21        remind me what I said?

22 Q. Yes. Do you recall that I showed  
23 you your figure 35 on page 59 of your initial  
24 report and you talked about how that was the  
25 annual change in 2008 or 2007 and I asked you

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1	THOMAS Z. LYS	
2	Q. Is that a way of saying that the	13:38:52
3	number of magazine units will decline by 8.04	13:38:56
4	percent a year?	13:39:04
5	MR. PAMPHILIS: Objection to form.	13:39:05
6	A. That is my estimate of the decline,	13:39:06
7	yes.	13:39:13
8	Q. And am I right that you used the	13:39:13
9	five inputs as shown there in figure 14?	13:39:17
10	A. That's correct.	13:39:22
11	Q. Now, the first four of those five	13:39:25
12	inputs, the management forecast, the Time 2009	13:39:27
13	budget, the industry forecast IBIS, I-B-I-S, and	13:39:31
14	industry forecast PWC, were those all in fact	13:39:37
15	revenue forecasts?	13:39:42
16	A. They were revenue forecasts and I	13:39:44
17	used my price forecast to match this series. From	13:39:46
18	the revenue forecast I backed out the implied unit	13:39:51
19	increase and this is the issue that I discussed	13:39:55
20	with you earlier that Mr. Beaton I think misses.	13:39:58
21	Q. So if your price increase rate is	13:40:02
22	wrong then your unit rate of decline would also be	13:40:08
23	wrong, right?	13:40:13
24	MR. PAMPHILIS: Objection to form.	13:40:14
25	A. I think this is a misleading -- I	13:40:14

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1 THOMAS Z. LYS

2 was a trick there somewhere.

3 Q. No, no trick. You're aware in fact  
4 efficiency in that sense declined over the period  
5 2009 to 2013?

6 MR. PAMPHILIS: Objection to form.

## 7 A. In hindsight?

8 Q. Yes.

The final reason not to manipulate efficiency is that the but for model uses the 2 percent concession and the 2 percent concession doesn't change the economics of efficiency. Had my but for model been based on the 7 cents surcharge as opposed to the 2 percent concession I would actually have to increase efficiency. Because one of the purposes that because my but

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1	THOMAS Z. LYS	
2	A. I have clarity about Impact II. I	14:39:55
3	just didn't see a signed document or anything	14:39:59
4	executed in regards to Impact II. I believe it	14:40:01
5	was never executed.	14:40:04
6	Q. Do you agree that all Comag titles	14:40:12
7	were not going to participate in Impact II?	14:40:15
8	MR. PAMPHILIS: Objection to form.	14:40:19
9	A. I don't recall.	14:40:21
10	Q. Are you familiar with the discounts	14:40:24
11	that any publishers gave to other wholesalers	14:40:26
12	after Anderson News shut down.	14:40:29
13	A. Before I answer that let me tell	14:40:39
14	you it is irrelevant because I'm modeling the but	14:40:41
15	for world. You're telling me in the world where	14:40:44
16	the conspiracy happened and Anderson shut down	14:40:47
17	what were the discounts. I don't think that is	14:40:51
18	the right way of thinking what would have happened	14:40:54
19	in the but for world. I think that is very	14:40:57
20	misleading and contrary to basic economics.	14:41:02
21	Q. Are you familiar with the discounts	14:41:07
22	that any publishers gave to other wholesalers	14:41:10
23	after Anderson News shut down?	14:41:14
24	A. I don't recall precisely right now.	14:41:15
25	I believe I saw some evidence particularly in your	14:41:20

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2 stating like we can't afford it or something like  
3 that. I remember a statement by AMI, yes I do.

4 Q. That statement wouldn't support by  
5 itself a conclusion that AMI would be willing to  
6 give a 2 percent price concession if anything  
7 would point the other way, right?

8 MR. PAMPHILIS: Objection to form.

9                   A.         Not at all. Not at all. When I'm  
10          trying to buy a car the dealer tells me he can't  
11          afford the price that I'm asking. And I say, what  
12          do you mean you can't afford it. I don't know  
13          what that means. It is a negotiation line that  
14          every negotiator uses that is meaningless.  
15          Particularly that what you can afford as a single  
16          negotiator in this market is not the same what you  
17          can afford or not afford if you're competitors  
18          also agreed to.

In the but for world the world  
looks quite different. It is not just the minus 2  
percent to publishers but obviously the cover  
prices would have reflected to the fact that all  
publishers are facing 7 cents. They would have  
changed their efficiencies that they impose or  
lack of efficiencies that they impose on the

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2 system.

3 So you can't simply look at it on a  
4 one by one piecemeal because that is not the but  
5 for world. The but for world is where we are all  
6 facing increased distribution costs. We know in  
7 the competitive industry that costs are passed on.  
8 It is only monopolists that are forced to eat some  
9 of the cost increases. So unless you are facing a  
10 completely elastic demand curve you pass this on.

11 Q. You don't know what AMI meant if it  
12 said it was unable to pay a 2 percent price  
13 increase, correct?

14 MR. PAMPHILIS: Objection, form.

15 A. That's correct.

16 Q. You don't know what Bauer meant if  
17 it said it was unable to pay a 2 percent price  
18 increase?

19 MR. PAMPHILIS: Objection, form.

20                   A.         What I do know is any reasonable  
21                   negotiator would respond to an offer with a  
22                   counteroffer. And an offer and counteroffer are  
23                   much more effective if they are accompanied by  
24                   anything resembling a justification. If you make  
25                   me an offer and I reject it and you say why are

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1	THOMAS Z. LYS	
2	Q. Do you see there in the second	15:09:47
3	sentence that you write that "Professor Picard	15:09:49
4	assessed the merits of their initiatives and	15:09:52
5	provided me with a quantification of their likely	15:09:58
6	impact on Anderson's cash flow."?	15:10:02
7	A. I see that.	15:10:04
8	Q. In what form did Professor Picard	15:10:05
9	provide you with that quantification?	15:10:08
10	A. I received -- I think he provided	15:10:09
11	it to me in spreadsheet form.	15:10:18
12	Q. Did you receive backup schedules	15:10:24
13	from Professor Picard?	15:10:25
14	MR. PAMPHILIS: Objection.	15:10:27
15	A. I don't recall.	15:10:28
16	Q. Did he provide you with Anderson	15:10:32
17	management created analyses that underlay his	15:10:42
18	quantification?	15:10:44
19	MR. PAMPHILIS: Objection to form.	15:10:45
20	A. I don't recall.	15:10:46
21	Q. Did you ask Professor Picard to	15:10:50
22	explain which of the savings related to Anderson	15:10:54
23	News and which related to Anderson Services?	15:11:00
24	A. Yes, I did.	15:11:02
25	Q. Did you ask him to explain to you	15:11:03

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1	THOMAS Z. LYS	
2	was dependent on one another?	15:12:29
3	MR. PAMPHILIS: Objection to form.	15:12:38
4	A. I don't recall any such discussion.	15:12:39
5	I mean do you mean by dependent if one happens the	15:12:52
6	other one will also happen? Is that what you	15:12:57
7	mean? I'm not sure that I understood your	15:12:59
8	question.	15:13:01
9	Q. Yes, so sort of on a scale from 0	15:13:01
10	to 1 you could measure whether the two	15:13:05
11	probabilities were dependent or independent or the	15:13:08
12	extent to which they were dependent on each other,	15:13:12
13	right?	15:13:15
14	A. Again, I don't understand what	15:13:15
15	you're asking. We didn't have a discussion on	15:13:17
16	probabilities. So obviously if that is your	15:13:19
17	question the answer is no. I thought what you	15:13:21
18	were saying is that if one happens then the other	15:13:25
19	one also happens. And I don't believe he said	15:13:29
20	anything that would lead me to believe that that	15:13:34
21	was his opinion.	15:13:37
22	Q. It was your understanding that the	15:13:39
23	various initiatives were independent of each	15:13:42
24	other?	15:13:44
25	MR. PAMPHILIS: Objection to form.	15:13:44

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1	THOMAS Z. LYS	
2	A. Yes. I mean that is what I	15:13:45
3	inferred from talking to him and the subsequent	15:13:49
4	discussions that I had with management.	15:13:52
5	Q. Who in Anderson management did you	15:13:58
6	discuss the cash flows from these performance	15:14:00
7	initiatives with?	15:14:03
8	MR. PAMPHILIS: Objection to form.	15:14:04
9	A. John Campbell and also Jay Maier.	15:14:05
10	Q. Was it your understanding that John	15:14:11
11	Campbell had prepared many of the underlying	15:14:13
12	initial calculations?	15:14:16
13	A. I believe so, yes. There may have	15:14:20
14	been also Bo Castle. I'm not sure. I spoke to Bo	15:14:23
15	Castle and I'm not sure whether it involved	15:14:31
16	initiatives. As I sit here today I can neither	15:14:33
17	confirm or deny that. I know I talked to Bo	15:14:35
18	Castle.	15:14:39
19	Q. Do you recall anything specific	15:14:40
20	that you discussed with Bo Castle as it related to	15:14:42
21	performance initiatives?	15:14:45
22	A. No, everything that I discussed	15:14:47
23	with him has been transferred into my report. So	15:14:49
24	again I would have to search where Bo Castle shows	15:14:54
25	up and see where it is in the report.	15:14:56

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1	THOMAS Z. LYS	
2	Picard?	15:16:11
3	A. Not in this report, no.	15:16:11
4	Q. Did you at any time make any	15:16:16
5	adjustments to any of the cash flows that you	15:16:20
6	received from Professor Picard?	15:16:23
7	MR. PAMPHILIS: Objection to form.	15:16:24
8	A. I mean I didn't single handedly	15:16:25
9	make an adjustment, but as it turns out he revised	15:16:30
10	his opinion on one initiative and I revised my	15:16:34
11	valuation accordingly. So your question was	15:16:40
12	sufficiently imprecise that I didn't know whether	15:16:43
13	you meant that or not. If that is what you meant,	15:16:46
14	this is my answer.	15:16:49
15	Q. So when he gave you a revised	15:16:49
16	calculation you then incorporated his revised	15:16:52
17	calculation into your DCF model?	15:16:55
18	A. Of course.	15:16:57
19	Q. But am I right that you did not	15:16:57
20	make any adjustments to the cash flows that you	15:17:01
21	received from Professor Picard that didn't come	15:17:04
22	from him?	15:17:07
23	A. That's correct. To the best of my	15:17:10
24	recollection, yes.	15:17:12
25	Q. If you could turn to paragraph 110	15:17:34

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1	THOMAS Z. LYS	
2	Q. So if I could ask you to turn to	15:26:41
3	figure 16 of this response report of July,	15:26:43
4	Exhibit 4. This is on page 44, figure 16.	15:26:47
5	A. Yes.	15:26:52
6	Q. Are these the cash flows that you	15:26:55
7	received from Professor Picard?	15:26:57
8	A. Yes.	15:26:59
9	Q. The information in the right-hand	15:27:02
10	column about which entity they affected, that too	15:27:05
11	is information that you received from Professor	15:27:10
12	Picard?	15:27:13
13	MR. PAMPHILIS: Objection to form.	15:27:13
14	A. Yes.	15:27:13
15	Q. Then if you could turn please to	15:27:17
16	the next page, page 45, figure 17, this is the	15:27:19
17	valuation impact of those same cash flows?	15:27:25
18	A. Yes.	15:27:28
19	Q. And is figure 17 then the result of	15:27:36
20	your running the cash flows that you received from	15:27:39
21	Professor Picard through your DCF models?	15:27:41
22	A. I believe so, yes.	15:27:44
23	Q. And so that takes a number of the	15:27:46
24	cost savings that are projected to occur at	15:27:52
25	Services and then apportions the valuation impact	15:27:58

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1	THOMAS Z. LYS	
2	to News, right?	15:28:01
3	A. Well, it also apportions it amongst	15:28:03
4	Services -- some of it occurs at Prologix and it's	15:28:07
5	apportioned to T&G and to Services and from	15:28:12
6	Services that is the \$28 million and some of it	15:28:18
7	then flows to News and that is the 72 million, and	15:28:20
8	the total is 101675	15:28:26
9	Q. Do you see in the row exchange of	15:28:31
10	delivery window?	15:28:34
11	A. Yes.	15:28:35
12	Q. There is valuation impact at	15:28:36
13	Services of negative \$420,000?	15:28:39
14	A. Yes, I see that.	15:28:41
15	Q. What does that represent?	15:28:42
16	A. I don't remember. As I sit here	15:28:46
17	today I can't recall. I would have to go back and	15:28:49
18	check my notes or actually my model. Actually my	15:28:51
19	model, there is no notes, my model to see why it	15:28:55
20	is minus 420.	15:29:00
21	Q. Do you have any understanding as	15:29:02
22	you sit here today how negative valuation impact	15:29:03
23	on Services could make sense?	15:29:06
24	MR. PAMPHILIS: Objection to form.	15:29:09
25	A. I'm sure that the number is	15:29:10

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1	THOMAS Z. LYS	
2	correct. It has been audited over and over again.	15:29:13
3	The problem is that I don't have any recollection	15:29:16
4	of the mechanics of the spreadsheet how this model	15:29:22
5	was negative. Whether this was compensation or	15:29:26
6	expansion of -- let's see. I simply can't answer	15:29:34
7	that question right now from memory. But I will	15:29:40
8	make sure that I go back to the spreadsheet and	15:29:44
9	trace it down.	15:29:48
10	Q. Regardless of the mechanics of the	15:29:52
11	calculation, do you have an understanding how it	15:29:54
12	could make conceptual sense from a modeling	15:29:56
13	perspective that the valuation impact of this cost	15:29:59
14	savings initiative could be negative for Services?	15:30:01
15	MR. PAMPHILIS: Objection to form.	15:30:04
16	A. Again, as I sit here today I simply	15:30:04
17	can't recall this. I mean there is two negative	15:30:12
18	numbers -- no, there is only one. It is the sum.	15:30:15
19	I don't know.	15:30:21
20	Q. Did you assume in your DCF models	15:30:21
21	that the service fee that would be charged to News	15:30:30
22	would remain constant at 78.5 percent?	15:30:36
23	A. Could you repeat your question? I	15:30:41
24	was still mentally --	15:30:42
25	Q. Of course. Did you assume in your	15:30:45

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1	THOMAS Z. LYS	
2	Anderson Services?	15:38:47
3	MR. PAMPHILIS: Objection to form.	15:38:47
4	A. Prologix East was an asset owned by	15:38:52
5	Services, so in that regard its assets are the assets of	15:38:56
6	Services.	15:39:06
7	Q. It was owned in part by Anderson	15:39:06
8	Services and in part by the News Group, right?	15:39:11
9	A. Yes.	15:39:13
10	Q. Is it your understanding that	15:39:15
11	Prologix East was sold to the News Group in or	15:39:17
12	around February of 2009?	15:39:21
13	A. I believe that is true, yes.	15:39:23
14	Q. And in fact are the proceeds that	15:39:24
15	Anderson Services received from the sale of its	15:39:33
16	interests in Prologix East reflected in the	15:39:36
17	liquidation proceeds in your analysis?	15:39:39
18	A. Of course, yes.	15:39:41
19	Q. Is it your understanding then that	15:39:42
20	Prologix East thereafter was owned -- was wholly	15:39:48
21	owned by the News Group?	15:39:54
22	A. That's correct. Wait, that's my	15:39:56
23	understanding. Actually what happens after	15:39:59
24	February 9th -- February '09 in the real world is	15:40:01
25	not relevant to my analysis or any cash flows that	15:40:11

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1	THOMAS Z. LYS	
2	I included in the offset to the damages.	15:40:15
3	Whether it was owned by the News	15:40:20
4	Group or anybody else I didn't follow up. So	15:40:25
5	whether they are today owned by who, I don't know.	15:40:31
6	Q. As part of your assignment in this	15:40:37
7	matter did you receive direction from Plaintiffs'	15:40:39
8	counsel about whether to include Prologix East in	15:40:41
9	your analysis?	15:40:45
10	A. I don't believe so. I mean I	15:40:52
11	valued Services' assets and as an economist I came	15:40:55
12	to the conclusion that Prologix East was an asset	15:41:01
13	owned in part, large part, by Services. So as	15:41:05
14	such I considered it. I don't recall having a	15:41:12
15	discussion with counsel about that. I may have	15:41:17
16	but I don't recall it.	15:41:21
17	Q. I think you said earlier that as	15:41:22
18	part of your calculation of damages in this case	15:41:27
19	you were trying to calculate damages to Anderson	15:41:30
20	News as a company and to Anderson Services as a	15:41:37
21	company; is that correct?	15:41:39
22	A. That's correct.	15:41:40
23	Q. Were you trying to calculate	15:41:40
24	damages to Prologix East as a company?	15:41:43
25	A. No.	15:41:46

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1	THOMAS Z. LYS	
2	which I interpreted it is reasonable.	16:17:10
3	Q. Let me ask you about your valuation	16:17:13
4	in the Rural Metro case.	16:17:18
5	A. Okay.	16:17:21
6	Q. In that case you performed a	16:17:22
7	valuation using discounted cash flow methodology,	16:17:23
8	didn't you?	16:17:27
9	A. I did.	16:17:27
10	Q. And did you then add the amount of	16:17:28
11	noninterest bearing liabilities?	16:17:33
12	A. No.	16:17:38
13	Q. You didn't do that in the Rural	16:17:39
14	Metro case, did you?	16:17:42
15	A. No, of course not.	16:17:43
16	Q. Have you ever in any other	16:17:47
17	litigation which you valued a company, have you	16:17:48
18	ever added the amount of the noninterest bearing	16:17:51
19	liabilities to the results of your discounted cash	16:17:54
20	flow calculation?	16:17:57
21	A. I didn't have to. This is the	16:18:03
22	first case where the damages are the destruction	16:18:05
23	of the assets. All the other cases, Rural Metro,	16:18:09
24	was a question of the value of equity. It was not	16:18:13
25	a question of the value of assets. That was not a	16:18:20

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1 THOMAS Z. LYS

2 believe anybody will dispute.

3 Q. Have you ever worked on any other  
4 case in which it was your opinion that damages  
5 were the destruction of total assets?

6                   A.         No, because all the other cases  
7         were not forced bankruptcy. All the other cases  
8         was a diminution of value of the equity, or the  
9         underpricing of equity, or the underpricing of  
10        debt and equity.

11 Q. Have you ever worked on a  
12 consulting engagement in which in your opinion the  
13 measure of damages was destruction of total  
14 assets?

15                   A.         It wasn't a total destruction of           16:20:14  
16                   the total assets. It was a question of valuing           16:20:17  
17                   the entire firm which is total assets. And there           16:20:20  
18                   of course I would add I was involved in the sale           16:20:25  
19                   of three private companies and the question when           16:20:27  
20                   you sell a private company is, what is being sold.           16:20:30  
21                   Are you selling total assets or are you selling           16:20:34  
22                   the equity. In a situation like that if the sale           16:20:36  
23                   is total assets then you do what I did here. If           16:20:40  
24                   on the other hand the sale is the sale of the           16:20:47  
25                   equity and you assume the liabilities, then you do           16:20:50

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1

2 THE VIDEOGRAPHER: This concludes the  
3 videotape deposition at 17:58.

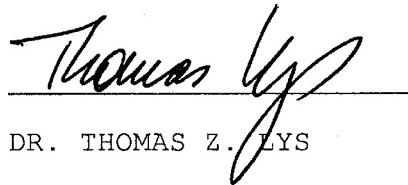
17:58:08

17:58:12

4 (TIME NOTED: 5:58 P.M.)

17:58:16

5



6

7 DR. THOMAS Z. LYS

8

9 Subscribed and sworn to before me  
10 this 23rd day of October, 2014

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1

2 STATE OF NEW YORK ) Pg\_\_ of \_\_Pgs

3 ss:

4 COUNTY OF NEW YORK )

5

6 I wish to make the following changes, for the  
7 following reasons: Please see the attached errata sheet

8 PAGE LINE

9 \_\_\_\_\_

CHANGE: \_\_\_\_\_

10 \_\_\_\_\_

REASON: \_\_\_\_\_

11 \_\_\_\_\_

CHANGE: \_\_\_\_\_

12 \_\_\_\_\_

REASON: \_\_\_\_\_

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## Thomas Z. Lys – Vol. 1, Errata Sheet

Anderson News, L.L.C. et al. v. American Media Inc. et al., No. 09 Civ. 2227

Deposition Date: September 19, 2014

Page	Line	Change	Reason
Throughout		Change “T&G” to “TNG”	Correction
Throughout		Change “Croger” to “Kroger”	Correction
Throughout		Change “Copers” to “Kroger”	Correction
Throughout		Change “X anti” to “ex ante”	Correction
Throughout		Change “X post” to “ex post”	Correction
9	13	Change “won’t” to “would not”	Clarification
15	21	Add “it” after “consulted”	Clarification
19	24	Change “accept” to “accepted”	Correction
23	10	Change “sterning” to “stern”	Correction
25	15	Add “as” before “such”	Clarification
28	16	Change “published” to “publish”	Correction
35	18	Change “litigation” to “legislation”	Correction
36	22	Change “resolved on” to “revolved around”	Clarification
39	20	Change “17 million” to “70 million”	Correction
39	21	Change “17 million” to “70 million”	Correction
41	14	Change “wept” to “went”	Correction
44	6	Change “of” to “as”	Correction
45	4-5	Change “producing – from selling” to “distributing”	Clarification
45	6	Change “import” to “distribution”	Correction of fact
46	16	Change “holy” to “Hulley”	Correction

Page	Line	Change	Reason
47	15	Change "has" to "have" and "sur" to "third"	Correction
47	20	Change "an evaluator" to "a valuator"	Correction
49	5	Change "sense" to "bunch"	Correction
50	14	Delete "the"	Clarification
55	3 and 5	Change "Illinoian" to "Illinoisan"	Correction
55	4	Delete "not" between "is" and "an"	Clarification
55	24	Change "ask" to "answer"	Correction
55	25	Add "be" after "Anderson" and add "for" after "sold"	Clarification
60	3	Change "an evaluator" to "a valuator"	Correction
61	13	Delete "this"	Clarification
65	16	Change "was" to "in"	Clarification
67	15	Change "to" to "or"	Correction
68	25	Change "unsustainable" to "unassailable"	Correction
70	18	Change "commutations" to "computations"	Correction
77	6	Change "parlez" to "parler"	Correction
81	14	Change "on" to "off the" and add "of my head" after "top"	Clarification
86	6	Change "economics" to "economic"	Correction
88	23	Delete "an"	Clarification
89	17	Add "it captures" after "So"	Clarification
89	23	Delete "is" and add "is" after "forward"	Correction
89	25	Change "inherent" to "inherit"	Correction
90	2	Change "inherent" to "inherit"	Correction

Page	Line	Change	Reason
90	3	Change "valid" to "valued"	Clarification
90	3	Add "in the" after "implied"	Clarification
91	12	Change "this" to "these"	Clarification
91	12	Change "incurred" to "anchored"	Correction
91	16-17	Add "were in the" between "that" and "historical"	Clarification
91	23	Change "today" to "to a"	Correction
94	18	Change "subdown" to "sit down"	Correction
97	8 and 14	Change "effects" to "affects"	Correction
99	14	Change "you're" to "your"	Correction
107	5	Change "Ginsberg" to "Grinberg"	Correction
107	6	Change "call" to "called"	Correction
121	12	Change "gave" to "gain"	Correction
130	8-9	Change "it do" to "he does"	Clarification
130	15	Change "actually twists" to "only twists one dial when in fact he should twist"	Clarification
130	17	Change "in" to "from"	Clarification
132	15	Change "goes" to "is"	Correction
136	24	Change "with" to "were"	Correction
137	3	Change "inflation" to "deflation"	Correction
137	4	Change "in" to "at"	Clarification
137	5	Add "to" after "lending"	Clarification
140	5	Change "contest" to "can test"	Correction
144	9	Delete "a"	Clarification
155	13	Add "fluctuations of" between "the" and "market"	Clarification

Page	Line	Change	Reason
156	13	Change “unsalable” to “unassailable”	Correction
160	16	Change “in” to “is”	Correction
160	19	Change “\$30 million” to “\$13 million”	Correction
163	23	Change “think” to “thinks”	Correction
166	20	Change “fact” to “facts”	Correction
169	9	Change “that” to “than”	Correction
175	19	Change “suspects” to “suspect”	Correction
183	15	Change “nonsequitur” to “non sequitur”	Correction
183	16	Add “how” between “see” and “one”	Clarification
183	19	Change “expect” to “expert”	Correction
184	11	Add “he” between “what” and “means”	Clarification
186	16	Change “concessions” to “concession”	Correction
187	12	Change “its” to “it’s”	Correction
190	23-24	Delete “is from the negotiation”	Clarification
190	25	Change “the” to “their”	Correction
191	2	Change “anger” to “anchor”	Correction
191	5	Change “you would expect it to be accepted” to “they would expect to be accepted”	Clarification
196	8	Add “of” between “one” and “the”	Clarification
198	10	Change “elastic” to “inelastic”	Correction
199	13	Change “you” to “your”	Correction
214	9	Change “exchange” to “expansion”	Correction
215	4	Change “how this model” to “and why this number”	Clarification

Page	Line	Change	Reason
215	5	Change "compensation" to "contraction"	Correction
218	3	Add "combined" between "the" and "PL East"	Clarification
219	4	Change "a" to "its"	Correction
219	6	Change "contractible" to "tractable"	Correction
225	4	Change "the albeit" to "this"	Clarification
225	5	Change both "affect" to "effect"	Correction
228	15	Change "production" to "reduction"	Correction
233	13	Change "maybe it did, but" to "if it did"	Clarification
234	22	Change "you're" to "your"	Correction
234	23	Change "same" to "say"	Correction
238	17	Change "is" to "are"	Correction
238	19	Change "affect" to "effect"	Correction
242	20	Change "medium" to "median"	Correction
243	11	Delete "minus"	Clarification
247	9	Change "precision" to "precisely"	Correction
250	7	Change "bankruptcy" to "bankruptcies"	Correction
251	14	Change "incredible" to "relevant"	Correction
253	20	Change "liabilities interest bearing" to "interest bearing liabilities"	Clarification
255	14 and 15	Change "principal" to "principle"	Correction
255	15	Change "they are" to "their"	Correction
264	21	Change "gathered" to "answered in the report"	Clarification
273	3	Change "unwinded" to "unwind"	Clarification
273	25	Change "lost" to "loss"	Correction

Page	Line	Change	Reason
274	5	Change "any" to "suffer any damages"	Clarification
274	23	Change "allege" to "alleged"	Correction
274	25	Add "argument that" between "an" and "Anderson"	Clarification
280	16	Change "is" to "are"	Clarification
280	17	Change "liability" to "reliability"	Correction
280	17	Change "the" to "a"	Correction
280	18	Add "and would have" before "addressed"	Clarification
291	18-19	Change "unwilling or willing try" to "unwillingly or willingly trying"	Clarification
297	14	Change "compensate" to "concentrate"	Correction
307	9 and 10	Change "122" to "122.150"	Clarification
307	10	Change "125" to "125.428"	Clarification
307	11	Change "207" to "2007"	Correction
307	12	Change "125428" to "125.428"	Clarification
307	12	Change "208" to "2008"	Correction
307	16 and 17	Change "122709" to "122.709"	Clarification
307	16 and 18	Change "128653" to "128.653"	Clarification
307	19	Delete "that 42204"	Clarification
308	5 and 6	Change "pie" to "pi"	Correction